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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,745	02/16/2001	Robert E. Zack	FREIT-005A	5531
7663	7590	10/06/2003	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/785,745

Applicant(s)

ZACK ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes et al. in view of Shaw (6,568,596).

Hughes et al. shows all of the limitations of the claims except for specifying generating a re-order and using an external communication device/global computer network.

Hughes et al. shows, figure 1, methods and apparatus for tracking and displaying objects. The system has a central computer 4 (controller/PC) and a location processor 8 (transponder communications device). Column 6 shows all items in a particular area, which are potentially of interest to the user, are tagged with a transponder 14 and linked with a corresponding data element from a database. The 3DPOS system can be in operation for some given area or areas in each retail outlet, consisting of an entire floor, a department on a floor, or a storage or warehousing region, for instance. The presence of walls or barriers can adversely affect the operation of the system, particularly the ability to accurately determine the location of tags, because radio waves are severely attenuated and distorted by these obstructions. To avoid these difficulties, in one embodiment of the present invention, independent receiver array sets (multiple

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boundaries) are used in each room or area of interest and each room or area is polled sequentially or independently. Bar-code technology can be used to forward each transponder ID number to the central processor, and by printing the bar-code of the transponder's ID number onto each transponder, the entries can be easily added and deleted. When an item is removed from the surveillance area 12 (e.g., because it was permanently removed or sold) (purchase status), its ID number is removed from the active list, and it will no longer be polled to determine its location. Column 9, lines 65-67, shows a restricted area may be defined near an exit at a retail store or warehouse so that personnel can be notified (generate an alert) for instances where tagged objects may be improperly removed.

Shaw teaches (column 1, lines 20-22, and column 2, lines 31-33) an XML based barcode scanner. It is an object of the invention to convert bar code data into data that is easily published on the Internet (external communication device/global computer network) or used by e-commerce applications. The features can be published as spreadsheet data, interactive business forms or perhaps as charts that could trigger automatic re-order of inventory (generating a re-order) in order to improve inventory procedures.

Based on the teaching of Shaw, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the bar code data of Hughes et al. into the XML format of Shaw, thus enabling the use of global computer network with potential automatic re-ordering, in order to improve inventory procedures.

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**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shaw (6,563,417) shows a monitoring system of interest. Haines et al. shows a re-order system of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

*Michael Cuff* 9/30/03  
Michael Cuff  
September 30, 2003